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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/564,319

10/12/2006

Stephen J. Russell

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05/28/2008

MORGAN, LEWIS & BOCKIUS LLP (SF)  
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EXAMINER

TORRES VELAZQUEZ, NORCA LIZ

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

05/28/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/564,319	RUSSELL ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Norca L. Torres-Velazquez	1794	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 January 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>011006 100207</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Objections***

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 37-40 needs to be renumbered 41-44 (original numbering). ***Claim***

### ***Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5, 7-9, 11-14, 16, 20, 22, 24-25 and 30-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Le ROY (US 5,475,904).

Le ROY composite laps that comprises a two basic laps that can be joined together by needling, the laps may be fibrous laps which have been woven or preconsolidated by mechanical or thermal or chemical means or by any other method of consolidation. The basis laps may consist of the same material or materials of different origin and structure and of different weights and densities. (Col. 2, lines 13-22) The reference teaches introducing an interleaved constituent through longitudinal ducts constructed within the ribs in such a way that the interleaved constituent is located between the basic laps. (Refer to Col. 2, lines 1-5) The interleaved

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constituent may be introduced in the form of a fluid and may have specific properties such as insulating, absorbent, among others. (Col. 2, lines 27-34) Complementarily, or alternatively, the interleaved constituent may incorporate threads or filaments of materials such as synthetic, animal and mineral materials. (Col. 2, lines 35-38) The reference discloses a basic lap comprising a preconsolidated non-woven polyester material weighing 80 to 150 gsm and a second basic lap consists of a preconsolidated non-woven viscose material weighing 150 to 230 gsm. (Col. 7, lines 36-40)

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6, 10, 17-19, 21, 33-34, 37-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Le ROY (US 5,475,904).

With regards to the thickness of the nonwoven, it is noted that while the reference is silent to such property, it discloses different embodiments related to different applications/final products. It is the Examiner's position the thickness of the material would be an obvious modification according to the end-use of the fabric. It is well settled that determination of optimum values of cause effective variables such as thickness is within the skill of one practicing the art. In re Boesch, 205 USPQ 215 (CCPA 1980). With regards to the type of different functional materials that could be used, it is the Examiner's position that these would be obvious in view of the teachings of Le Roy that teaches that the interleaved constituent may be materials

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such as fluid, powder, filaments, wires... and further teaches that these materials impart specific properties to the composite lap. (Refer to Col. 2, lines 5-50)

6. Claims 15, 35-36 and 39-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over LE ROY as applied above, and further in view of SUZUKI et al. (US 4,377,615).

SUZUKI et al. relates to nonwoven fabrics having multilayer structures. The structure taught by the reference is to be used as the outer cover in applications such as sanitary napkins, disposable diapers and the like. (Col. 1, lines 6-26) The reference teaches using a hydrophobic layer and a hydrophilic layer (refer to col. 2, lines 3-19). One having ordinary skill in the art would provide the construction LE ROY with a at least one hydrophilic layer and at least one hydrophobic layer motivated by the desire of producing a capillary effect in the material that will allow for moisture or fluid wicking in a direction of the fabric. Such property would make the construction useful in applications such as diapers in which superior permeability and prevention of back flow of body exudates against the nonwoven fabric is desired and when dryness is desirable in the surface.

7. Claims 23, 26-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over LE ROY as applied to claim 22 above, and further in view of VUILLAUME (US 5,396,689).

While LE ROY teaches interengagement for joining the laps, it is silent to the use of water jets.

VUILLAUME relates to a process of making a composite textile structure from nonwoven fibrous sheets. The reference teaches using "water jets" as the mechanical needling treatment to bond the nonwoven sheets forming the composite. (Refer to Col. 3, lines 58-61) It would have been obvious to one having ordinary skill in the art of multilayer composites to use

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water jets for needling of a multilayer laminate with the motivation of producing a structure with increased strength of the product in the longitudinal direction as taught by VIULLAUME. (Refer to Col. 3, lines 58-68 through Col. 4, lines 1-2)

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Norca L. Torres-Velazquez whose telephone number is 571-272-1484. The examiner can normally be reached on Monday-Thursday 8:00-5:00 pm and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Norca L. Torres-Velazquez/  
Primary Examiner, Art Unit 1794

May 23, 2008